

405 KAR 1:051. Incremental bonding.

RELATES TO: KRS 350.060

STATUTORY AUTHORITY: KRS 350.028

NECESSITY, FUNCTION, AND CONFORMITY: KRS 350.060 requires the Environmental and Public Protection Cabinet to adopt reasonable bonding administrative regulations to cover the cost of reclamation instant to the strip mining of coal. This administrative regulation sets forth procedures and requirements related to the incremental bonding of such permits for surface mining permits.

Section 1. Incremental Bonding. (1) A surety satisfactory to the cabinet may be considered, in the discretion of the cabinet, a bond payable in a penal sum to the cabinet to be determined by the cabinet incrementally; provided that any applicant shall, as a permit condition, file with the cabinet pursuant to 405 KAR 1:050 a backfilling and grading plan, a plan for handling waste materials and a revegetation plan sufficient to indicate to the cabinet that the applicant will follow the proposed method of operation and other requirements as set forth by the cabinet.

(2) Bonds issued pursuant to subsection (1) of this section shall be determined by taking into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of backfilling, grading, and reclamation to be required; provided that the applicant shall identify as part of his plan of operation increments of area of land affected on which he will conduct his operation; and provided further that the applicant shall confine his operations to the identified and bonded increments at all times while operations are conducted on the site.

(3) For purposes of posting the incremental bonds pursuant to subsections (1) and (2) of this section, the cabinet shall propose, and the applicant shall agree to, the posting of each additional incremental bond as operations are conducted on each subsequent increment on the site. The cabinet shall publish from time to time procedures and documents to implement this administrative regulation.

(4) The total amount of bond in effect during an operation as set pursuant to this administrative regulation shall at all times be sufficient to reclaim the total disturbed area; provided that the total bond in effect shall be applicable to the total disturbed area and adequate to cover the cost of reclamation of the total disturbed area. (6 Ky.R. 377; eff. 2-6-1980; TAm eff. 8-9-2007.)